

JAN 13 2006

PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

341645-991100

First named inventor: Michael K. Wills

Application No.: 10/664,226

Art Unit: 3671

Filed: September 16, 2003

Examiner: Gary S. Hartmann

Title:  
CONTROLLING EMISSIONS DURING ASPHALT PAVINGAttention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

01/17/2006 STEUMEL1 00000032 071896 10664226

01 FC:1453 1500.00 DA

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☐ Small entity-fee \$\_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee \$1,600.00 (37 CFR 1.17(m))**2. Reply and/or fee****A. The reply and/or fee to the above-noted Office action in**

the form of \_\_\_\_\_ (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_
- ☐ is enclosed herewith.

**B. The issue fee and publication fee (if applicable) of \$1,700.00.**

- ☐ as been paid previously on \_\_\_\_\_
- ☒ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

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## 3. Terminal disclaimer with disclaimer fee

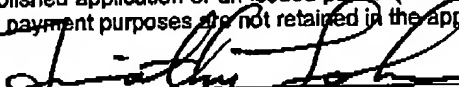
☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

  
Signature

January 13, 2006  
Date

Timothy W. Lohse  
Typed or printed name

35,255  
Registration Number, if applicable

DLA Piper Rudnick Gray Cary US LLP  
Address

650.833.2055  
Telephone Number

2000 University Avenue, East Palo Alto, CA 94303  
Address

- Enclosures: ☒ Fee Payment  
☐ Reply  
☐ Terminal Disclaimer Form  
☒ Additional sheets containing statements establishing unintentional delay  
☐ Other: \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.  
☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

January 13, 2006  
Date

  
Signature

Cathy Pittman  
Typed or printed name of person signing certificate

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE


Applicant: Michael K. Wills                      Serial No.: 10/664,226  
Filing Date: November 16, 2003                      Group Art Unit: 3671  
Title: CONTROLLING EMISSIONS DURING ASPHALT PAVING

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the following correspondence is being facsimile transmitted  
to the United States Patent and Trademark Office at facsimile number (571) 273-8300

Mail Stop PETITION

On January 13, 2006

  
Cathy Pittman

Attached are the following documents:

1. Fax Transmittal Cover Sheet (1 pg.);
2. Transmittal Form (1 pg);
3. Petition for Revival of an Application ..(2 pgs);
4. Part B -- Issue Fee Transmittal (1 pg);
5. Fee Transmittal (1 pg); and
6. Certificate of Facsimile Transmission (1 pg).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> <b>for FY 2005</b>		<b>Complete if Known</b>	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	10/664,226
		Filing Date	September 16, 2003
		First Named Inventor	Michael K. Wills
		Examiner Name	Gary S. Hartmann
		Art Unit	3671
TOTAL AMOUNT OF PAYMENT		(\$3,230.00)	
		Attorney Docket No.	341645-991100

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## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 07-1896 Deposit Account Name: DLA Piper Rudnick Gray Cary US LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17  
☐ Charge fee(s) indicated below, except for the filing fee  
☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2036.

## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

## 2. EXCESS CLAIM FEES

Fee Description	Small Entity Fee (\$)	Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 20 or HP =	x	=
HP = highest number of total claims paid for, if greater than 20		
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 3 or HP =	x	=
HP = highest number of independent claims paid for, if greater than 3		

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/50 =	(round up to a whole number) x	=	

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Pet. to Withdraw Abandonm't (1500); Issue, Publication Fees (1730) 3,230

SUBMITTED BY		Registration No. 35,265	Telephone 650.833.2055
Signature		(Attorney/Agent)	
Name (Print/Type)	Timothy W. Lohse	Date	January 13, 2006

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS OFFICE.

JAN 13 2006

**DLA PIPER RUDNICK  
GRAYCARY**

DLA Piper Rudnick Gray Cary US LLP  
2000 University Avenue  
East Palo Alto, California 94303-2248  
O 650.833.2055  
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W www.dlapiper.com

**IFAX TRANSMISSION COVER SHEET**

January 13, 2006

To:Telephone:Fax Number:

United States Patent and Trademark  
Office, Mail Stop Petition

(571) 273-8300

From: Timothy W. Lohse  
650.833.2055

Client-Matter Number: 341645-991100

Re: U.S. Patent Application S/N 10/664,226 filed on November 16, 2003

Pages: - 1 - (including this form)

Originals: Will not follow

If there is a problem with this transmission, please call \_\_\_\_\_

Fax Operator/Ext.

**Message:**

Attached are the following documents which are being facsimile transmitted to facsimile number (571) 273-8300 addressed to: MAIL STOP PETITION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450:

1. Transmittal Form (1 pg);
2. Petition for Revival of an Application (2 pgs);
3. Part B - Issue Fee Transmittal (1 pg);
4. Fee Transmittal (1 pg); and
5. Certificate of Facsimile Transmission (1 pg);

Cathy Pittman

Dated: January 13, 2006**CONFIDENTIALITY NOTICE**

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<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after Initial filing)</i>	Application Number	10/664,226
	Filing Date	September 16, 2003
	First Named Inventor	Michael K. Wills
	Art Unit	3671
	Examiner Name	Gary S. Hartmann
Total Number of Pages in This Submission	Attorney Docket Number	341645-991100 (formerly 1070405-991100)

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Response to Office Action <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s): Part B - Issue Fee Transmittal (1p); Petition for Revival of Application (2p); Fee Transmittal (1p); Certificate of Fax Transmission (1p);
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Or Individual name	DLA Piper Rudnick Gray Cary US LLP
Signature	<i>Timothy W. Lohse</i>
Date	January 13, 2006

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at facsimile no. (571) 273-8300 or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Cathy Pittman	Date	January 13, 2006
Signature	<i>Cathy Pittman</i>		

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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